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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

Case No: 3:13-cv-04280 YGR/EDL

Indiezone, Inc., a Delaware corporation, and
EoBuy, Limited an Irish private limited
company,

Plaintiffs,

vs.

Todd Rooke, Joe Rogness, Phil Hazel, Sam
Ashkar, Holly Oliver and U.S. Bank,
collectively the ***RICO Defendants***;

Jingit LLC, Jingit Holdings, LLC, Jingit
Financial Services LLC., Music.Me, LLC.,
Tony Abena, John E. Fleming, Dan Frawley,
Dave Moorehouse II, Chris Ohlsen, Justin
James, Shannon Davis, Chris Karls in their
capacities as officers, agents and/or employees
of Jingit LLC, ***Defendants in Negligence, and
Aiding/Abetting***;

Wal-Mart, General Electric, Target, DOE(s)
and ROE(s) 1 through 10, ***Defendants in
Negligence Secondary-Vicarious
Infringement***,

Defendants.

**PLAINTIFFS' MEMORANDUM OF
LAW IN SUPPORT OF THE MOTION
TO AMEND ITS SUMMONS AND
COMPLAINT PURSUANT TO FED. R.
CIV. P. 15 (a) and RULE 20(a)**

ARGUMENT

Federal Rule of Civil Procedure 15(a) provides that leave to amend a pleading "shall be freely given when justice so requires."

Learned sources have also observed that:

[P]ermission has been granted under Rule 15(a) at various stages of the litigation: following discovery; after a pretrial conference; at a hearing on a motion to dismiss or for summary judgment; after a motion to dismiss has been granted but before the order of dismissal has been entered; when the case is on the trial calendar and has been set for a hearing by the district court; at the beginning, during and at the close of trial; after a judgment has been entered; and even on remand following an appeal. 6 C. Wright, A. Miller, & M. Kane, Federal Practice and Procedure § 1488 at 652-57 (1990) (footnotes omitted).

Our Supreme Court, having ruled on the issue of granting amendments to pleadings, has declared:

Rule 15(a) declares that leave to amend "shall be freely given when justice so requires"; this mandate is to be heeded. If the underlying circumstances relied upon by a plaintiff may be a proper subject of relief, he ought to be afforded an opportunity to test his claims on the merits. In the absence of any apparent or declared reason -- such as undue delay, bad faith or dilatory motive on the part of the movant, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the opposing party . . . , -- the leave sought should, as the rules require, be "freely given." Foman v. Davis, 371 U.S. 178, 182 (1962) (citations omitted).

Because the Rule 15(a) requires compliance for pleading amendments as requesting new or additional parties Rule 20(a) of the Federal Rules of Civil Procedure governs a motion for a party to amend its pleadings.

The rule requires a court to "freely give leave when justice so requires." *Id.* R. 15(a)(2). Rule 15 "evinces a bias in favor of granting leave to amend." See, Stripling v. Jordan Prod. Co., LLC, 234 F.3d 863, 872 (5th Cir. 2000) (internal quotation marks and

1 citations omitted). "Unless there is a 'substantial reason to deny leave to amend, the
 2 discretion of the district court is not broad enough to permit denial.'" Id. (quoting Dussouy
 3 v. Gulf Coast Inv. Corp., 660 F.2d 594, 597 (Former 5th Cir. 1981. Parenthetically, this
 4 Court may also consider their consent to the amendment when considering whether to
 5 exercise it discretion to allow the amendment. See, Fed R. Civ. P. 15(a).

6
 7 (a) PERSONS WHO MAY JOIN OR BE JOINED.

8 (1) *Plaintiffs*. Persons may join in one action as plaintiffs if:

9 (A) they assert any right to relief jointly, severally, or in the alternative
 10 with respect to or arising out of the same transaction, occurrence, or
 series of transactions or occurrences; . . .

11 The Court is asked to consider the facts that no responsive pleading has been filed;
 12 that Plaintiff have complied with the prior order of the Court for service of the defendants
 13 Wal-Mart, General Electric, Target and their time to answer or otherwise move has not yet expired; the
 14 joint case management schedule does not yet exists but will be submitted in manner which
 15 will allow the Court to accommodate the amendment without delay; that under the
 16 circumstances no prejudice will occur to any of the parties by the amendment and that the
 17 amendment will only add clarity to the actual parties to the dispute.

18 In this case, Plaintiffs are seeking leave to amend the complaint where the
 19 amendment will only correct the identity of the Plaintiff eoBuy and ensure consistent
 20 verdict for conduct arising from the same set of facts and transactions. [See Exhibit "A"

21 **Proposed Amended Summons and Complaint.]**

22 Respectfully, under the circumstances this court may in its discretion grant Plaintiffs' Motion.

23 **Conclusion**

24 For the foregoing reasons, and more particularly because no prejudice will result by
 25 allowing Plaintiff to amend the Complaint and add new parties, the Court in its discretion
 26 should grant Plaintiff's Motion.

27 Respectfully submitted this
 28 21st day of February 2014



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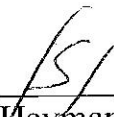
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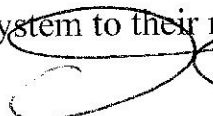
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CERTIFICATE OF SERVICE

I hereby certify that, in accordance with the Rules of Federal Procedure, on the this
date February 21, 2014, a true and correct copy of the foregoing document was delivered
to Defendants, by and through the ECF System to their record counsel.



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